

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF ISSAQUAH**

In the Matter of the Application of)	No. FP15-00002
)	
)	
Mostafa Ghoreishi)	Maleki Meadows Final Plat
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Final Plat</u>)	AND DECISION

SUMMARY OF DECISION

The Hearing Examiner **APPROVES** the Maleki Meadows Final Plat. Conditions are necessary to mitigate specific project impacts and ensure compliance with City ordinances.

SUMMARY OF RECORD

Meeting Date:

The Hearing Examiner held a public meeting on the request on November 25, 2015.

Comments:

The following individuals provided comments at the public meeting:

Peter Rosen, City Senior Environmental Planner
Mostafa Ghoreishi, Applicant
Marilyn Batura, neighboring property owner

Exhibits:

The following exhibits were submitted at the public meeting:

1. Vicinity Map, undated
2. Final Plat Application, received June 30, 2015
3. Approved Preliminary Plat Plans (3 Sheets), dated August 14, 2013
4. Preliminary Plat Approval, *In re Ghoreishi*, No. PP13-00004, dated March 10, 2014
5. Final Plat Plan (2 Sheets), dated November 12, 2015
6. Site Works Permit Engineering Plans (6 Sheets), revised July 21, 2015
7. Final Wetlands Mitigation Plans (3 Sheets), dated August 20, 2013
8. Final Landscape Plans (2 Sheets), dated October 16, 2013
9. Notice Materials:
 - a. Affidavit of Service of Mailing, dated November 13, 2015
 - b. Notice of Application and Notice of Public Meeting, dated November 13, 2015
 - c. Email from Peter Rosen to Ryan,¹ undated

¹ The email does not contain Ryan's full name and the printout of the email submitted at the public meeting does not contain the date Mr. Rosen sent it.

- d. Email from Peter Rosen to Marilyn Batura, undated²
10. Letter from Sheldon Lynne, P.E., to Peter Rosen summarizing performance bond requirements, dated November 12, 2015, with attachments (3 total)
11. Staff Report, dated November 25, 2012

The Hearing Examiner enters the following Findings and Conclusions based upon the comments offered and exhibits admitted at the public meeting:

FINDINGS

Application and Notice

1. Mostafa Ghoreishi (Applicant) requests approval of a Final Plat to subdivide 2.13 acres into eight single-family lots, a critical area wetland tract (Tract A), and two common open-space tracts (Tracts B, C). The property is addressed as 1025/1035 Front Street South.³ *Exhibit 2; Exhibit 3; Exhibit 5; Exhibit 11, Staff Report, page 1.*
2. The City of Issaquah (City) determined the application was complete on September 3, 2015. The City mailed notice of the application and associated public meeting to adjacent property owners and parties of record on November 13, 2015. *Exhibit 9a; Exhibit 9b; Exhibit 9c; Exhibit 9d; Exhibit 11, Staff Report, page 3.*

State Environmental Policy Act (SEPA)

3. The City acted as lead agency and analyzed the environmental impacts of the proposed project as required by SEPA, Chapter 43.21C RCW, during the preliminary plat approval process. The City issued a Mitigated Determination of Nonsignificance (MDNS) on January 22, 2014. Mitigation measures imposed by the MDNS became conditions of preliminary plat approval. Accordingly, City staff determined that no further SEPA review was necessary for final plat approval.⁴ *Exhibit 4; Exhibit 11, Staff Report, page 3.*

Comprehensive Plan, Zoning, and Surrounding Property

4. The property is designated Low Density Residential (LDR) by the City Comprehensive Plan. The City adopted the LDR Comprehensive Plan designation to provide a variety of housing types within a full range of urban services. *Former City Comprehensive Plan, Land Use Element, page L-11 (2006).* The LDR designation is appropriate for property containing critical areas, provided that the critical areas are protected. *Former City Comprehensive Plan, Land Use Element, page L-11. Exhibit 4; Exhibit 11, Staff Report, page 2.*

² The printout of the email submitted at the public meeting does not contain the date Mr. Rosen sent it.

³ The subject property is identified by Tax Assessor Parcel Nos. 342406-9156, -9356, -9357, and -9358. The Approved Preliminary Plat Plans contain a full legal description of the property. *Exhibit 3.*

⁴ As noted by the Washington Supreme Court, "SEPA does not mandate bureaucratic redundancy but only that the heretofore ignored environmental considerations become part of normal decision making on major actions." *Loveless v. Yantis*, 82 Wn.2d 754, 765 (1973).

5. The property is located within the City's Single-Family Suburban (SF-S) zoning district. The City adopted the SF-S zone primarily to provide for single-family neighborhoods in an urban setting while buffering those neighborhoods from commercial services. *Issaquah Municipal Code (IMC) 18.06.100.C*. The SF-S zone allows single-family residential development at a maximum density of 4.5 dwelling units per acre. *IMC Table 18.07.360*. The SF-S zone requires front, side, and rear setbacks of 20, 8, and 10 feet, respectively. *IMC 18.07.360 Table 1. Exhibit 4; Exhibit 11, Staff Report, page 2.*
6. Surrounding properties are mostly zoned SF-S. Single-family residences are located to the north, northwest, and southeast. Townhouses are located across Front Street South to the Northeast. *Exhibit 4; Exhibit 11, Staff Report, page 2.*

Existing Conditions

7. The 2.13-acre site is irregular in shape with the northeast property line fronting Front Street South, which runs northwest to southeast. A Category I wetland and its associated buffer occupy the southwestern portion of the property. Three structures on the property conflict with the proposed lots lines. These include an out-building structure that crosses the proposed lot line dividing Lots 4 and 5, a single-family residence that crosses the proposed lot line dividing Lots 5 and 6; and a single-family residence that crosses the proposed lot line that would divide Lots 7 and 8. *Exhibit 4; Exhibit 11, Staff Report, page 1.*

Project Background and Project Modification

8. The Applicant submitted a preliminary plat for the project in August 2013. The City Hearing Examiner held an open record hearing on the proposed preliminary plat on March 4, 2014, and approved the preliminary plat on March 10, 2014, with 35 conditions. The Applicant has since submitted Site Works Permit Engineering Drawings, Final Wetland Mitigation Plans, and Final Landscape Plans. *Exhibit 6; Exhibit 7; Exhibit 8.*
9. Under IMC 18.13.280, the Hearing Examiner may not approve a final plat until all required improvements are constructed in a satisfactory manner and approved by the responsible City departments, or sufficient bond has been satisfactorily posted in lieu of completion. The required bond amount is calculated using the submitted final plans. *IMC 18.13.280*. When the Applicant defers plat improvements by submitting a bond, the City Public Works Director must notify the City Planning Department in writing of the improvements deferred, the amount of bond or other security and the time limit of each, and any other pertinent information. *IMC 18.13.280.G*. City Public Works Engineering Director Sheldon Lynne stated in a November 12, 2015, letter to Mr. Rosen that the developer has deferred all plat improvements and that the necessary bond amounts have been determined. *Exhibit 10.*

10. One of the conditions of preliminary plat approval required the Applicant to remove the three structures that conflicted with the proposed lot lines. The Applicant has not removed any of those three structures. The Applicant now seeks a modification of the approved preliminary plat to revise the lot lines between Lots 7 and 8 and Common Open Space Tract B so that the single-family structure straddling Lots 7 and 8 could remain. The proposed new lot lines would provide sufficient space for the single-family residence to meet the setbacks required in the SF-S zone. The lot-line adjustments would decrease the size of Lot 7 from 3,672 square feet to 3,667 square feet; the five feet subtracted from Lot 7 would be added to Lot 8, and the critical area would remain unchanged in size, with its borders shifted slightly. *Exhibit 11, Staff Report, pages 3 through 5.*
11. At the public meeting, both the Applicant and City Senior Environmental Planner Peter Rosen explained the modification as an accommodation for the tenant currently living in the single-family residence crossing the proposed lot line between Lots 7 and 8. The tenant suffers from a number of hardships and has been unable to make alternative housing arrangements. Mr. Rosen stated that he has placed the tenant in contact with City agencies that can provide assistance. The Applicant noted that he intended to demolish the single-family residence as soon as the tenant moved out, but was willing to provide additional time for her to do so. *Comments of Mr. Ghoreishi; Comments of Mr. Rosen.*
12. Mr. Rosen stated that, after demolition of the residence crossing the proposed lot line dividing Lots 7 and 8, the Applicant would conform the lot lines to those proposed in the preliminary plat with either a boundary-line adjustment or a Final Plat alteration. Mr. Rosen opined that he preferred the boundary-line adjustment (BLA) because it would be easier to process, but he stated that he was unsure whether a BLA would suffice. Mr. Rosen explained that each of the lots created by the final plat would have an interest in Common Open Space Tract B and stated that a BLA might prove unworkable because of the number of lots involved. *Comments of Mr. Rosen.*
13. The Hearing Examiner may approve a final plat that differs from the approved preliminary plat where the changes amount to a minor deviation.⁵ *IMC 18.13.200.C.1.* A *minor deviation* is one that does not increase the number of lots, does not decrease the size of any lot by more than 10 percent, does not substantially alter the location or nature of any improvements of any other element of the subdivision, and does not significantly alter the subdivision. *IMC 18.13.200.C.1.*
14. The City reviewed the proposed modifications and determined that they would not increase the number of lots, decrease the size of any lot by more than 10 percent, substantially alter the location or nature of any improvements or elements of the subdivision, or significantly alter the subdivision. *Exhibit 11, Staff Report, page 4.*

⁵ Modifications that do not satisfy the minor deviation criteria require that the proposed final plat be processed as a new preliminary plat application. *IMC 18.13.200.C.*

Preliminary Plat Conditions

15. Conditions placed on the preliminary plat approval for the Maleki Preliminary Plat (PP13-00004) apply to the final plat proposal. City staff reviewed the final plat application for consistency with the conditions of preliminary plat approval. The preliminary plat conditions of approval are numbered below, followed by the City staff's analysis, in italics, of how the proposed final plat complies with each condition:

1. The exterior site boundary side yard setbacks shall be landscaped and a six-foot wood fence constructed by the Applicant along the side property boundaries to adequately screen the proposed development from the adjacent single family residential properties.

Complies. The landscape plan (LA-1) includes a 6-foot cedar fence along the exterior side property boundaries. Fencing is included as part of landscape improvements in the deferred performance bond. The fence along the north property boundary, adjacent to a single-family residence, will be required prior to final approval of the building permit on Lot 1.

2. Final wetland/wetland buffer enhancement plans are required for approval by the Issaquah Development Services Department (DSD) prior to issuing construction permits. Final plans shall include a planting plan and a five-year monitoring/maintenance plan with performance standards for monitoring success of the enhancement planting. The plans shall meet standards of the King County Critical Areas Mitigation Guidelines for the planting density and monitoring performance standards.

Complies. Final wetland mitigation plans have been submitted under landscape permit (LAN15-00001) and the plans meet the above condition.

3. The wetland/wetland buffer enhancement plans shall be revised to include trees and/or willow stakes shall be planted in the wetland area to out-compete invasive plant species and to increase the cover and structural diversity of vegetation in the wetland to improve functions over the existing conditions.

Complies. Final wetland mitigation plans have been submitted under landscape permit (LAN15-00001) and the plans (W1.1) include willow and tree stakes in the wetland area to meet the above condition.

4. The Applicant shall provide an as-built plan of the wetland/wetland buffer enhancement and the consulting biologist shall verify in writing that the planting has been installed per plan prior to final plat approval.

The Applicant has provided a performance bond for deferring plat improvements. The performance bond includes the cost of the plants and labor to install the required wetland/wetland buffer enhancement planting. As as-built plan and

verification from the consulting biologist will be required after the enhancement planting has been installed.

5. A five-year monitoring/maintenance period is required. The Applicant shall provide a bond amount equal to 50 percent of the cost of plants, labor and the five-year monitoring/maintenance cost prior to final plat approval.

The Applicant has provided a performance bond to defer the required wetland/wetland buffer enhancement planting. The 5-year monitoring/maintenance bond will be required once the wetland buffer enhancements have been installed and accepted. The cost of the monitoring/maintenance bond is listed on the final wetland mitigation plans (W3.1).

6. A wood split rail fence shall be installed along the edge of the wetland buffer (Tract A) to control circulation and limit human and pet encroachment into the wetland, prior to final plat approval.

Complies. Split rail fence and detail is shown on the final wetland mitigation plans (W1.1, W2.1).

7. Permanent survey stakes shall be set to delineate the boundaries between critical area tracts and adjoining properties, prior to final plat approval.

Complies. The survey stakes are included in the site works performance bond as a deferred improvement.

8. The Applicant shall provide certification from a surveyor that development activity and improvements on individual lots do not extend in critical area buffers and common open space areas, prior to final plat approval.

Plat improvements have been deferred and therefore staff recommends this condition be required with building permits on individual lots. This is recommended as a final plat condition.

9. Signs between critical area tracts and adjacent properties shall be installed, explaining the type and value of the critical area, prior to final plat approval.

Complies. Critical area signs and details are shown on the final wetland mitigation plans (W1.1, W2.1).

10. The final plat shall include Native Growth Protection Easement (NGPE) language to protect the critical area tract (Tract A) from development and alteration of vegetation in perpetuity.

Complies. Final Plat Sheet 2 of 2 includes NGPE provisions.

11. The driveway access shall be signed and limited to right-in/right-out turns only.

Complies. The Site Works permit, Sheet 2 of 6 – Grading, Drainage, Utility Plan, includes a right turn only sign. The plans also include c-curbing to prevent left turn movements from exiting the site and to prevent left turns into the site.

12. The Applicant shall apply for a Site Works Permit to construct the roads, utilities and grading of the lots. A final plat review will follow after subdivision infrastructure has been installed or bonded for prior to recording.

Complies. The Applicant submitted a Site Works Permit (SW15-00018) for plat improvements. The cost of plat improvements was determined from the plans and the Applicant has submitted performance bonds in lieu of constructing the improvements, consistent with IMC 18.13.280.

13. Proposed lot lines would cross/conflict with the two existing single family homes on the site. The two existing residences shall be removed prior to recording the final plat.

The Applicant has not completed the demolition of existing structures conflicting with proposed lot lines. Staff recommends a condition that final plat mylars will not be recorded until the single-family residential structure that overlies and conflicts with the proposed lot lines for Lots 5 and 6 and the small out-structure which crosses proposed lot lines between Lots 4 and 5 are demolished.

Another existing single-family house straddles the lots lines of Lots 7 and 8. The Applicant may not be able to demolish the structure prior to recording the final plat because of complications with moving out the existing tenant. Therefore, the lot lines between Lots 7 and 8 and Tract B (Open Space Tract) have been modified from the preliminary plat approval, so the existing structure meets the setback requirements of the Single Family Suburban (SF-S) zone. This would allow the existing structure to remain and the final plat recorded. The Applicant would later complete a lot line adjustment or Final Plat alteration when the structure is removed to restore the lot lines to match the preliminary plat.

14. The common open space areas along the street frontage are connected to the common open space adjacent to the wetland buffer by a trail located adjacent to Lots 1 and 8. The 4-foot wide crushed rock path would directly abut the residences on Lots 1 and 8. This could result in a privacy issue for the residents on Lots 1 and 8 and discourage the common use of the open space areas as intended. The site plan shall be revised to include landscape screening between the trail and the abutting residences.

Complies. The final landscape plan (LA-1) has been revised to provide 3 feet of landscape screening between the trail and the abutting residences.

15. The common open space tracts (Tracts B and C) will be held in common ownership and are intended to be accessible to all residents of the development. The maintenance of the common open space areas will be the responsibility of the residents. The final plat shall include notes for the common open space Tracts B

and C; to clarify common ownership, common access, and common maintenance responsibilities.

Complies. The Final Plat, Sheet 2 under Tract Notes, specifies that the common open space tracts will be conveyed to the HOA and the cost of operations, maintenance, and repairs will be the responsibility of the HOA.

16. Improvement of the common open space areas and landscaping is part of the preliminary plat improvements and therefore shall be installed or bonded for prior to recording of the final plat.

Complies. The Applicant has provided a performance bond to defer the improvements and landscaping of the common open spaces. (Exhibit 10).

17. The preliminary plat plans show a five-foot storm easement along the common side lot lines where the structures are not attached. This easement shall be revised to also allow for maintenance of the building walls.

Complies. The easement has been revised on the Final Plat (Sheet 2 of 2) to also include building maintenance.

18. The final plat shall indicate the exact location and building footprint of all structures proposed to encroach within the required setback, the zero lot lines, and the related easements. Easements shall be granted to each of the properties using the private street/road for purposes of access (ingress and egress) and utilities.

Final plats do not typically include building footprints. Interior lot setbacks do not apply to the cluster housing development. A private, common access easement for all lots is included on Sheet 1 of the Final Plat.

19. The proposed residences shall be located facing toward Front Street South. To encourage a street orientation, the front doors of the residences shall be visible and clearly oriented to the street. This shall be reviewed with building permits.

This condition will be reviewed for compliance with building permits on each individual lot.

20. To ensure safe and efficient pedestrian access, there shall be a clear pedestrian connection between the front doors of the residences to the sidewalk along Front St S. This may be accomplished with a combination of sidewalks, change of paving materials, or paint striping/patterns, subject to the approval of the Development Services Department. The pedestrian connections shall be approved prior to recording of the final plat.

Complies. The landscape plans show a pedestrian connection from the front doors of the residences to the street sidewalk and the plans show a change in

paving materials from the vehicle drive surfacing. The sidewalk or pedestrian connection has been included in the performance bond as a deferred plat improvement.

21. To minimize the predominance and visibility of parking areas, the residential garages shall be recessed or setback from the front door entries to the residences.

This condition will be reviewed for compliance with building permits on each individual lot.

22. Driveways shall be a minimum of 18 feet in length to ensure adequate on-site parking and that parked vehicles will not encroach into the common drive access.

Complies. The common access drive and driveways are shown on the site works permit, and the driveways have a minimum 18-foot length from the common access drive.

23. In order to protect the trees that have been identified to be retained from construction impacts, the trees proposed shall be outside clearing/grading limits or will require protective fencing, and clearing/grading will be limited around protected tree areas to ensure tree health and retention. An arborist report may be needed to assess trees proximate to clearing/grading activities. Tree protection measures shall be reviewed with construction plans and shall be installed prior to clearing/grading activity.

Complies. The site works permit TESC plan (Sheet 5 of 6) shows retained trees outside of clearing/grading limits. Site improvements have been deferred. Tree protection measures will be implemented during site clearing/grading.

24. The Applicant shall remove the existing chain link fence along the wetland/wetland buffer area abutting City property, so it isn't a barrier to wildlife movement.

Complies. Removal of the chain link fence is shown on the final landscape plan (LA-1). Landscape improvements have been deferred with a performance bond.

25. The Applicant has requested a deviation from the street standard frontage improvements, to not install a 5-foot wide planter strip between the curb and sidewalk. In order for the City to construct street improvements in the future along Front St S, in accordance with the current street standards, the Applicant shall dedicate 2 feet to provide sufficient right-of-way width.

The Final Plat (Sheet 2) shows a 2-foot sidewalk easement. The City reviewing engineer determined an easement for sidewalk maintenance is satisfactory and dedication is not required.

26. Stormwater facilities shall meet the guidelines and requirements of the 2009 King County Surface Water Design Manual (2009 KCSWDM) as adopted by the City

of Issaquah and the City of Issaquah Surface Water Design Manual Addendum 2011. Additional soil infiltration and material testing is required to determine the proposed water quality design meets the code requirements.

Complies. The proposed stormwater facilities meet the guidelines and requirements of the 2009 King County Surface Water Design Manual (2009 KCSWDM) as adopted by the City of Issaquah Surface Water Design Manual Addendum 2011.

27. The following impact fees shall be required and the applicable cost calculated at the time of issuance of building permits for each residential unit: Transportation, Fire, Schools, Parks, General Government (SEPA), Police (SEPA).

Impact fees will be required at the time of issuance of building permits for each residential unit.

28. New water meters shall follow City of Issaquah 2012 water standards. City of Issaquah Public Works Operations (PWO) will install new service runs and meters. For existing meters, PWO will install all meter upgrades.

Complies. Water meters are shown on site works permit Sheet 2 - Grading/Drainage/Utility/Topography.

29. Prior to demolition of the existing residences: 1. An asbestos survey shall be conducted by an AHERA - certified building inspector and filed with the Puget Sound Clean Air Agency (206-515-2800). 2. A Notice of Intent SHALL be filed with the Puget Sound Air Pollution Control Agency prior to any demolition work being done. A copy of the Notice of Intent shall be kept on-site and be available for review by inspection personnel. 3. All asbestos shall be removed prior to demolition.

This condition will be required for all the demolition permits of the existing structures on the site.

30. A foundation soils report by a licensed WA state geotechnical engineer shall be required at the time of building permit submittal. A peer review of the submitted soils report by a second engineer may be required on some sites.

Soils reports are a standard requirement for building permits and will be required at the time of building permit submittal.

31. The Building Code [2012 IRC Building Code, Table R 302.1(1)] limits wall openings (windows), eave overhangs, and requires fire-rated walls where buildings aren't separated by a minimum of 6 feet. The Applicant shall comply with these standards with building permit applications.

This requirement will be reviewed with building permits on the individual lots.

32. If you post "No Parking- Fire Lane" signs along the driveway to the homes then the homes will not have to be equipped with fire sprinklers due to non approved

access. If you do not want to install the signs then the distance from an approved access road (the main road) to the furthest wall of the home will exceed 150 feet allowed by code before a sprinkler system is required.

The Fire Marshal will review this requirement with building permits on the individual lots.

33. One and two family dwelling structures that exceed 5000 sq. ft. (this number includes the garage) shall have fire sprinklers installed per NFPA 13-D as per City ordinance.

The Fire Marshal will review this requirement with building permits on the individual lots.

34. A Homeowners' Association (HOA) shall be formed to maintain the open space tracts, driveway, and stormwater facilities.

Complies. The Final Plat (Sheets 1 and 2) includes provisions that the HOA is responsible for maintenance of the open space tracts, common access driveways, and stormwater facilities.

35. All easements shown on the final plat shall also be incorporated into the Covenants, Conditions, and Restrictions (CC&Rs) of the HOA.

Covenants, Conditions, and Restrictions (CC&Rs) of the HOA have not been provided to City staff.

Staff Recommendation and Public Meeting

16. City staff reviewed the proposed final plat for compliance with the technical requirements in IMC 18.13.180 through .340, which govern the final plat application, the general and specific requirements of the final plat, the dedications and certifications contained in the final plat or to accompany the final plat, and the requirements of Chapter 58.17 RCW. City staff determined that, with one exception (the Applicant's inability to comply with a condition of preliminary plat approval, discussed below), all of these requirements are satisfied, and City staff recommends approval of the final plat with conditions. The conditions require the Applicant to remove the structures conflicting with the proposed lot lines, ensure that development of the lots does not intrude into critical area buffers or common open space tracts, obtain the necessary signatures of City representatives on the final plat, properly record the final plat, and submit copies of the final plat to the relevant City departments. *Exhibit 11, Staff Report, pages 3 through 10.*
17. The Applicant did not comply with the condition of preliminary plat approval requiring him to remove the structures that conflicted with the proposed lot lines. The Applicant proposed the modification to the preliminary plat discussed above, however, to address the problem created by his inability to move a tenant out of one of the residences. At the public meeting, Mr. Rosen noted that the Applicant has sought the necessary permits for the removal of the other structures. Staff recommends approving the modification to the

preliminary plat and imposing a condition to final plat approval requiring the Applicant to remove the out-building and the single-family residence straddling Lots 5 and 6 before recording the Final Plat mylars. *Exhibit 11, Staff Report, pages 7 and 11; Comments of Mr. Rosen.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide final plat applications under Issaquah Municipal Code (IMC) 18.04.490.C.2 and IMC 18.13.200. Final plats are reviewed at public meetings and do not require review at an open record hearing. *IMC 18.04.470.B.* The Hearing Examiner's decision on a final plat is appealable to the City Council. *IMC 18.04.490.C.2.*

Criteria for Review

IMC 18.13.200.B, which provides the criteria for reviewing a final plat, states:

The Hearing Examiner shall review the final plat and all documents including any public comments and approve the final plat if the final plat:

1. Except for minor modifications under IMC 18.13.160, Modification of an approved final plat, is consistent with the approved preliminary plat; and
2. Is consistent with the provisions of this title and Chapter 58.17 RCW.

These criteria include the criteria for review of plats set forth in RCW 58.17.110, the state subdivision statute. The City Council and Hearing Examiner addressed the application's consistency with RCW 58.17.110 criteria during preliminary plat review. *See Exhibit 4.* As a result of preliminary plat review, the Hearing Examiner approved the preliminary plat with 35 conditions. *See Exhibit 4.* Because the application has already undergone review for consistency with the applicable subdivision criteria, and because conditions of approval were applied to ensure consistency, final plat review is limited to determining whether conditions of preliminary plat approval and Chapter 18.13 IMC technical requirements are satisfied.

Conclusions Based on Findings

1. **The deviations from the approved preliminary plat are minor under IMC 18.13.200.C, allowing review of this application as one for a final plat.** The Applicant has not proposed the creation of new lots in the final plat. The modifications to the proposed lots do not decrease the size of any proposed lot by 10 percent or more. The proposed modification does not alter the location or nature of any improvement or element in the proposed subdivision, but only slightly shifts some of the lot lines dividing Lots 7 and 8 and Common Open Space Tract B. The change in lot lines does significantly alter the subdivision. *Findings 10-14.*

2. **With conditions, the proposed final plat would comply with Chapter 18.13 IMC technical requirements.** The City gave reasonable notice of the final plat application and associated public meeting. The City previously reviewed the environmental impacts of developing the property through the preliminary plat process, as required by SEPA, and determined that, with conditions, the proposed development would not have probable, significant adverse environmental impacts. The Applicant has generally complied with Chapter 18.13 IMC technical requirements, including those requiring the provision of specified information and the posting of performance bonds in lieu of plat improvements. Conditions are necessary to ensure that the Applicant removes structures conflicting with the proposed lot lines, certifies that development of the lots does not intrude into critical area buffers or common open space tracts, obtains necessary signatures of City representatives on the final plat, properly records the final plat, and submits copies of the final plat to the relevant City departments.

Because of the modification to the approved preliminary plat, which is made to accommodate a tenant experiencing serious hardships, a condition requiring the Applicant to complete a boundary-line adjustment to conform the final plat to the approved preliminary plat after demolition of that residence is also appropriate. This condition would reduce administrative burdens on the City and Applicant, and would provide notice to purchasers of the lots created by the final plat that future adjustment of the lot line of Open Space Tract B is contemplated. *Findings 1 – 17.*

3. **With conditions, the final plat would comply with the applicable conditions of preliminary plat approval.** The final plat, site works permit engineering, wetland mitigation, and landscape plans incorporate the changes required by the conditions of preliminary plat approval. The Applicant has provided the necessary performance bond in lieu of plat improvements as permitted by IMC 18.13.280. The Applicant has applied for the required demolition permit to remove the structures that conflict with the lots lines proposed in the final plat. Conditions of final plat approval would ensure that the Applicant removes the structures conflicting with the proposed lot lines and certifies that development activity and improvements on individual lots do intrude into critical area buffers and common open space areas, as required by the conditions of preliminary plat approval. *Findings 1 – 17.*


DECISION

Based on the preceding Findings and Conclusions, the final plat for Maleki Meadows is **APPROVED**, with the following conditions:

1. The Final Plat mylars shall not be recorded until the single-family residential structure that overlies and conflicts with the proposed lot lines for Lots 5 and 6 and the small out-structure which crosses proposed lot lines between Lots 4 and 5 are demolished.

2. The Applicant shall provide certification from a surveyor that development activity and improvements on individual lots do not extend in critical area buffers and common open space areas. This shall be required prior to final building permit approval.
3. Minor, non-substantive adjustments may be made to the Final Plat at the discretion of the Responsible Official prior to recording of the Final Plat mylars.
4. Prior to the Applicant recording of the Final Plat with King County, the necessary signatures of City representatives must be signed on the mylar sheets.
5. The Applicant shall record the approved Final Plat with the King County Department of Records and Elections.
6. A copy of the recorded Final Plat packages shall be provided to the Development Services Department within ten (10) days of recording with the King County Department of Records and Elections. The Applicant shall also submit an electronic copy of the plats in a format acceptable to the Public Works Department.
7. The Applicant shall apply for a boundary line adjust to conform the lot lines between Lot 7, Lot 8, and Common Open Space Tract B to the lot lines described in the approved preliminary plat after demolition of the existing single-family residence conflicting with the proposed lot line dividing Lots 7 and 8.

Decided this 30th day of November 2015.


THEODORE PAUL HUNTER
Hearing Examiner
Sound Law